



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

April 30, 2003

Ref: 8MO

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bruce Bender, Public Works Director
City of Missoula
435 Ryman
Missoula, MT 59802

Re: Order for Compliance under the
Clean Water Act 33 U.S.C. § 309(a)

Dear Mr. Bender:

Enclosed is an Order for Compliance (Order) issued by the Environmental Protection Agency Region VIII (EPA) to the City of Missoula for violations under the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq. (Act). The Order specifies the nature of the violations. Specifically, EPA has found that the Missoula Publicly Owned Treatment Works (POTW) failed to apply for coverage under the general permit for biosolids generation, treatment and disposal by the required date of November 15, 2002.

The Order describes the actions necessary in order for the Missoula POTW to achieve compliance with the CWA. The Order further requires that you notify EPA in writing within ten (10) days whether you intend to comply.

The Act requires the Administrator of EPA to take all appropriate enforcement actions necessary to ensure prompt compliance with the Act and any Orders issued thereunder. Section 309 of the Act provides a variety of possible enforcement actions, including the filing of a civil or criminal action, an administrative penalty action, and/or debarment from federal contracts and/or loans for any noncompliance with the Act or with an Order issued pursuant to the Act. Please be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or of civil or criminal actions in the U.S. District Court for the violations cited in the Order or for failure to comply with the Order.



Printed on Recycled Paper

Please review the Order carefully. If you have any questions, the most knowledgeable people on my staff are Gwen Jacobs, Montana Office, (for technical issues) who can be reached at (406) 457-5023 and Elyana Sutin, Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6899.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: John Wardell, 8MO
John Arrigo, MT DEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII**

IN THE MATTER OF:)	
)	ORDER FOR COMPLIANCE
City of Missoula, MT)	
435 Ryman)	
Missoula, MT 59802)	
)	
Respondent.)	
_____)	Docket No. CWA-08-2003-66

LEGAL AUTHORITY

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, 402, and/or 405 of the Act, or of any permit condition or limitation implementing those sections. This authority has been properly delegated to the undersigned official.

As authorized by the Act, EPA developed regulations which identify uses for sewage sludge, including disposal; specify factors to be taken into account in determining measures and practices applicable to each such use or disposal; and identify concentrations of pollutants which interfere with each such use or disposal. 33 U.S.C. § 1345(d). The regulations have been in effect since 1993. All terms used in this Order are defined in the Act and/or EPA regulations. See, sections 212, 301, 309, 402, 405 and 502 of the Act, 33 U.S.C. §§ 1292, 1311, 1319, 1342, 1345 and 1362, and 40 C.F.R. parts 122 and 503.

FINDINGS OF FACT AND LAW

1. Respondent, City of Missoula, Montana, is a city created under Montana law.
2. Respondent owns a publicly owned treatment works (POTW) where domestic sewage is treated.
3. Respondent generates sewage sludge (solid, semi-solid, or liquid residue) during treatment of domestic sewage at the facility.
4. Respondent therefore is subject to the sewage sludge regulations and any permit issued by EPA implementing the regulations. 40 C.F.R. Part 503.
5. EPA issued a general permit, effective on August 16, 2002, for facilities in Montana and in Indian country which generate, treat, and/or use or dispose of sewage sludge by land application, landfill, or surface disposal. Attachment A - General Permit number MTG650000.
6. Respondent is regulated by the General Permit.
7. Respondent was required to apply for coverage under the General Permit by November 15, 2002, or to apply for an individual sewage sludge permit. Respondent has not applied for coverage under either the general or an individual sewage sludge permit.
8. Respondent's failure to apply for coverage under the General Permit constitutes a violation of the Act and of EPA regulations. 33 U.S.C. § 402(a) and 40 C.F.R. § 122.21.

ORDER

_____ Respondent is ordered to perform the following actions:

9. Within ten (10) days of receipt of this Order, Respondent shall give written notice to EPA of its intent to comply with the requirements of this Order.
10. Within thirty (30) days of receipt of this Order, Respondent shall submit a completed Notice of Intent (NOI) to be covered under the General Permit or shall apply for an individual

permit. The NOI shall include all information outlined in Part 2.2.1 of the General Permit, applicable information outlined in Part 2.2.2, and Parts 4, 5, 6, and 7 (as applicable). The format of the NOI shall adhere to the guidelines outlined in part 2.2 of the General Permit. EPA will review the NOI and either will: (a) approve the NOI; (b) approve the NOI with modifications; (c) disapprove the NOI and direct Respondent to resubmit the NOI after incorporating EPA's comments; or (d) direct Respondent to apply for an individual sewage sludge permit.

11. Within fifteen (15) days of receipt of EPA's response to the NOI, or such longer time as specified by EPA's response, Respondent either will comply with EPA's response or will object in writing to EPA's response. If Respondent timely files such an objection, EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached within this thirty- (30-) day period, EPA shall provide a written statement of its decision to Respondent which decision shall be final and binding upon Respondent.

12. Within fourteen (14) days of receipt of EPA's written notice of coverage under the general permit, Respondent shall submit an itemized list of all costs incurred to comply with the permit application requirements of this Order.

OTHER PROVISIONS

13. EPA regulations protect confidential business information. 40 C.F.R. part 2, subpart B. If Respondent asserts a business confidentiality claim pursuant to these regulations for information required to be submitted under this Order, such information only shall be provided to EPA. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in the regulations. Unless a confidentiality claim is asserted at the time the information

is submitted, EPA may make the information available to the public without further notice to Respondent.

14. All written notices and reports required by this Order shall be sent to the following addresses:

Gwen Jacobs
U.S. EPA Region VIII
Montana Office
10 W. 15th St., Suite 3200
Helena, MT 59626

Bob Brobst
U.S. EPA Region VIII
Mailcode 8P-W-P
999 18th St., Suite 300
Denver, CO 80202-2466

15. Any failure to comply with the requirements of this Order shall constitute a violation of the Order and may subject Respondent to penalties as provided under the Act. 33 U.S.C. § 1319.

16. This Order does not constitute a waiver or modification of the terms and conditions of any National Pollutant Discharge Elimination System (NPDES) permit held by Respondent, or of any other legal responsibilities or liability. Any such permit remains in full force and effect.

17. This Order does not constitute a waiver of or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief under the Act. The Act authorizes the assessment of civil penalties of up to \$27,500 per day for each violation of the Act, and fines and imprisonment for willful or negligent violations. 33 U.S.C. § 1319.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION VIII
Complainant.

Date: 4/25/03

SIGNED
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

In the Matter of: City of Missoula, MT
Docket No.:

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Order for Compliance was sent to the following persons, in the manner specified, on the date below:

Original and One (1) Copy
Hand-carried and Filed:

Tina Artemis
Regional Hearing Clerk
U.S. EPA, Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

True Copy by Certified Mail
"Return Receipt Requested"
with the attached document:

Mr. Bruce Bender, Public Works Director
City of Missoula
435 Ryman
Missoula, MT 59802

Certificate of Service

Date: 4/30/03

GWEN JACOBS

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON APRIL 28, 2003.